

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 140

Short Title: Insurance Lapse Penalty Changes.

(Public)

Sponsors: Representative R. Hunter.

Referred to: Judiciary II.

February 8, 1995

A BILL TO BE ENTITLED

AN ACT TO REVISE THE PENALTIES FOR DRIVING A VEHICLE WITHOUT INSURANCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 20-309(e) reads as rewritten:

"(e) ~~Upon termination by cancellation or otherwise of an insurance policy provided in subsection (b) of this section, the~~ An insurer shall that, by cancellation or failure to renew, terminates a liability insurance policy must notify the Division of such termination; provided, no cancellation notice is required if the insurer issues a new insurance policy complying with this Article at the same time the insurer cancels or otherwise terminates the old policy, the termination. This requirement does not apply when an insurer issues a new liability insurance policy to replace the terminated policy and no lapse in coverage results, and the insurer sends results. In this circumstance, however, the insurer must notify the Division certificate of insurance form for the issuance of the new policy to the Division. The Division, upon receiving notice of cancellation or termination of an owner's financial responsibility as required by this Article, shall notify such owner of such cancellation or termination, and such owner shall, to retain the registration plate for the vehicle registered or required to be registered, within 10 days from date of notice given by the Division either:

- (1) ~~Certify to the Division that he had financial responsibility effective on or prior to the date of such termination; or~~

1 (2) ~~In the case of a lapse in financial responsibility, pay a fifty dollar~~
2 ~~(\$50.00) civil penalty; and certify to the Division that he now has~~
3 ~~financial responsibility effective on the date of certification, that he did~~
4 ~~not operate the vehicle in question during the period of no financial~~
5 ~~responsibility with the knowledge that there was no financial~~
6 ~~responsibility, and that the vehicle in question was not involved in a~~
7 ~~motor vehicle accident during the period of no financial responsibility.~~

8 ~~Failure of the owner to certify that he has financial responsibility as herein required~~
9 ~~shall be prima facie evidence that no financial responsibility exists with regard to the~~
10 ~~vehicle concerned and unless the owner's registration plate has on or prior to the date of~~
11 ~~termination of insurance been surrendered to the Division by surrender to an agent or~~
12 ~~representative of the Division designated by the Commissioner, or depositing the same in~~
13 ~~the United States mail, addressed to the Division of Motor Vehicles, Raleigh, North~~
14 ~~Carolina, the Division shall revoke the vehicle's registration for 30 days.~~

15 ~~In no case shall any vehicle, the registration of which has been revoked for failure to~~
16 ~~have financial responsibility, be reregistered in the name of the registered owner, spouse,~~
17 ~~or any child of the spouse, or any child of such owner within less than 30 days after the~~
18 ~~date of receipt of the registration plate by the Division of Motor Vehicles, except that a~~
19 ~~spouse living separate and apart from the registered owner may register such vehicle~~
20 ~~immediately in such spouse's name. Additionally, as a condition precedent to the~~
21 ~~reregistration of the vehicle by the registered owner, spouse, or any child of the spouse,~~
22 ~~or any child of such owner, except a spouse living separate and apart from the registered~~
23 ~~owner, the payment of a restoration fee of fifty dollars (\$50.00) and the appropriate fee~~
24 ~~for a new registration plate is required. Any person, firm or corporation failing to give~~
25 ~~notice of termination shall be subject to policy. The Commissioner of Insurance may~~
26 ~~assess a civil penalty of two hundred dollars (\$200.00) to be assessed by the~~
27 ~~Commissioner of Insurance upon a finding by the Commissioner of Insurance that good~~
28 ~~cause is not shown for such failure to give notice of termination to the Division. against~~
29 ~~an insurer that fails to notify the Division, as required by this subsection, unless the~~
30 ~~insurer establishes good cause for the failure.~~

31 Sec. 2. G.S. 20-311 reads as rewritten:

32 "**§ 20-311. Revocation of registration when financial responsibility not in effect. Action by**
33 **Division when notified that a vehicle is not insured.**

34 ~~Upon receipt of evidence that financial responsibility for the operation of any motor~~
35 ~~vehicle registered or required to be registered in this State is not or was not in effect at the~~
36 ~~time of operation or certification that insurance was in effect, the Division shall revoke~~
37 ~~the owner's registration plate issued for the vehicle at the time of operation or~~
38 ~~certification that insurance was in effect or the current registration plate for the vehicle in~~
39 ~~the year registration has changed for 30 days.~~

40 ~~The vehicle for which registration has been revoked pursuant to this section may be~~
41 ~~registered at the end of the 30-day revocation period upon certification of financial~~
42 ~~responsibility and payment by the vehicle owner of a fifty dollar (\$50.00) administrative~~

1 ~~fee in addition to appropriate license fees. In no event may such vehicle be registered~~
2 ~~prior to payment of the fifty dollar (\$50.00) administrative fee.~~

3 (a) Action. – When the Division receives evidence, by a notice of termination of a
4 liability insurance policy or otherwise, that the owner of a motor vehicle registered or
5 required to be registered in this State does not have financial responsibility for the
6 operation of the vehicle, the Division must send the owner a letter. The letter must notify
7 the owner of the evidence and inform the owner that the owner must respond to the letter
8 within 10 days of the date on the letter and explain how the owner has met the duty to
9 have continuous financial responsibility for the vehicle. Based on the owner's response,
10 the Division must take the appropriate action listed:

11 (1) Division Correction. – If the owner responds within the required time
12 and the response establishes that the owner has not had a lapse in
13 financial responsibility, the Division must correct its records.

14 (2) Penalty Only. – If the owner responds within the required time and the
15 response establishes all of the following, the Division must assess the
16 owner a penalty in the amount set in subsection (b) of this section:

17 a. The owner had a lapse in financial responsibility, but the owner
18 now has financial responsibility.

19 b. The vehicle was not involved in an accident during the lapse in
20 financial responsibility.

21 c. The owner did not operate the vehicle during the lapse with
22 knowledge that the owner had no financial responsibility for the
23 vehicle.

24 (3) Penalty and Revocation. – If the owner responds within the required
25 time and the response establishes any of the following, the Division
26 must assess the owner a penalty in the amount set in subsection (b) of
27 this section and revoke the registration of the owner's vehicle for the
28 period set in subsection (c) of this section:

29 a. The owner had a lapse in financial responsibility and still does
30 not have financial responsibility.

31 b. The owner now has financial responsibility even though the
32 owner had a lapse, but the vehicle was involved in an accident
33 during the lapse, the owner operated the vehicle during the lapse
34 with knowledge that the owner had no financial responsibility for
35 the vehicle, or both.

36 (4) Revocation Pending Response. – If the owner does not respond within
37 the required time, the Division must revoke the registration of the
38 owner's vehicle for the period set in subsection (c) of this section.
39 When the owner responds, the Division must take the appropriate action
40 listed in subdivisions (1) through (3) of this subsection as if the response
41 had been timely.

42 (b) Penalty Amount. – The penalty amount is the greater of the following:

43 (1) Twenty-five dollars (\$25.00).

1 (2) One dollar (\$1.00) multiplied by the product of the number of days the
2 owner had no financial responsibility and the owner's driving points
3 under G.S. 20-16 on the day the lapse in financial responsibility began.

4 A lapse in financial responsibility that results from failure to make an installment
5 payment of a premium on a liability insurance policy begins the day after the installment
6 was due rather than the effective date of the policy.

7 If a vehicle owner is subject to a penalty because the owner had a lapse in financial
8 responsibility and still does not have financial responsibility, the Division must assess
9 part of the penalty when it establishes that the owner is subject to a penalty and part of it
10 when the owner applies to the Division to register a vehicle upon obtaining financial
11 responsibility. The Division must calculate the first part of the penalty based on the
12 number of days in the lapse up to the date of the revocation notice the Division sends the
13 owner. The Division must calculate the second part of the penalty based on the number
14 of days in the lapse from the date of the revocation notice to the date the owner obtains
15 financial responsibility.

16 (c) Revocation Period. – The revocation period for a revocation based on a
17 response that establishes that a vehicle owner does not have financial responsibility is
18 indefinite and ends when the owner obtains financial responsibility or transfers the
19 vehicle to an owner who has financial responsibility. The revocation period for a
20 revocation based on a response that establishes the occurrence of an accident during a
21 lapse in financial responsibility or the knowing operation of a vehicle without financial
22 responsibility is 30 days. The revocation period for a revocation based on failure of a
23 vehicle owner to respond is indefinite and ends when the owner responds.

24 (d) Revocation Notice. – When the Division revokes the registration of an owner's
25 vehicle, it must notify the owner of the revocation. The notice must inform the owner of
26 the following:

27 (1) That the owner must return the vehicle's license plate and registration
28 card to the Division, if the owner has not done so already, and that
29 failure to do so is a Class 2 misdemeanor under G.S. 20-45.

30 (2) That the vehicle's license plate and registration card are subject to
31 seizure by a law enforcement officer.

32 (3) That the registration of the vehicle cannot be renewed while the
33 registration is revoked.

34 (4) That the owner must pay any penalties assessed, a restoration fee, and
35 the fee for a license plate when the owner applies to the Division to
36 register a vehicle whose registration was revoked.

37 A vehicle whose registration has been revoked may not be registered during the
38 revocation period in the name of the owner, a child of the owner, the owner's spouse, or a
39 child of the owner's spouse. This restriction does not apply to a spouse who is living
40 separate and apart from the owner.

41 (f) Registration After Revocation. – At the end of a revocation period, a vehicle
42 owner who has financial responsibility may apply to register a vehicle whose registration

1 was revoked. The owner must pay any penalty assessed, a restoration fee of twenty-five
2 dollars (\$25.00), and the fee for a license plate."

3 Sec. 3. G.S. 20-316 reads as rewritten:

4 **"§ 20-316. Divisional hearings upon lapse of liability insurance coverage.**

5 Any person whose ~~registration~~-license plate has been revoked under G.S. 20-309(e)
6 ~~or~~ 20-311 may request a hearing. Upon receipt of ~~such a~~ request, the Division
7 shall, as early as practical, afford him an opportunity for hearing. ~~Upon such hearing~~ must hold
8 a hearing as soon as practical. At the hearing, the duly authorized agents of the Division
9 may administer oaths and issue subpoenas for the attendance of witnesses and the
10 production of relevant books and documents. If it appears that continuous financial
11 responsibility existed for the vehicle involved, or if it appears the lapse of financial
12 responsibility is not reasonably attributable to the neglect or fault of the person whose
13 ~~registration~~-license plate was revoked, the Division shall withdraw its order of revocation
14 and ~~such the~~ person may retain the ~~registration~~-license plate. Otherwise, the order of
15 revocation shall be affirmed and the ~~registration~~-license plate surrendered."

16 Sec. 4. This act becomes effective January 1, 1996, and applies to lapses of
17 financial responsibility occurring on or after that date.